

Guidelines on Combatting the Abuse of Non-Profit Organisations (FATF Recommendation 8)

The objective of Financial Action Task Force (“FATF”) Recommendation 8 is to ensure that Non-Profit Organisations (“NPOs”) are not misused by terrorist organisations:

1. to pose as legitimate entities;
2. to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
3. to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

The FATF Best Practices on Combatting the Abuse of Non-Profit Organisations were issued in June 2013 and highlight measures to protect NPOs from misuse while not “disrupting or discouraging legitimate charitable activities”.

http://www.fatf-afi.org/media/fatf/documents/reports/Combating_the_abuse_of_NPOs_Rec8.pdf

Below are some practices, taken from FATF Best Practices (Combating the abuse of non-profit organisations) - Recommendation 8, which can be used by NPOs in further strengthening their systems.

Guiding Principles

The following principles guide the establishment of these best practices:

1. *Oversight of NPOs is a co-operative undertaking among the Anti-Money Laundering and Terrorist Financing (“AML/CFT”) Supervisor, the charitable community, persons who support charity, and those whom it serves. NPOs and government entities charged with their oversight both seek to promote transparency and accountability and, more broadly, common social welfare and security goals.*
2. *AML/CFT supervision and the measures taken by financial institutions should be flexible, effective, and proportional to the risk of abuse. Mechanisms that reduce the compliance requirements without creating loopholes for terrorist financiers should be given due consideration.*
3. *Different countries approach the regulation of NPOs from different constitutional, legal, regulatory, and institutional frameworks, and any international standards or range of models must allow for such differences, while adhering to the goals of establishing transparency and accountability in the ways in which NPOs raise and disburse funds.*
4. *Countries may differ on the scope of purposes and activities that are within the definition of “charity”, but all should agree that it does not include activities that directly or indirectly support either domestic or international terrorism, including actions that could serve to induce or compensate for participation in terrorist acts.*

5. *The non-profit sector in many countries has representational, self-regulatory organisations or watchdogs, and accrediting institutions that can and should play a role in the protection of the sector against abuse.*

Other important principles that should be taken into account are as follows:

FINANCIAL TRANSPARENCY

Transparency is in the interest of the donors, organisations, and authorities. Many NPOs have internal requirements in place that contribute to transparency and understanding of how the funds are transmitted and received. Data stemming from such internal procedures may provide useful information also to authorities.

Financial accounting

The principal person in all NPOs must be committed to manage responsibly the funds that donors entrust to him/her, and to report the financial affairs accurately and completely. Budgets should be made and managed in accordance with the NPOs' purposes, objectives and activities.

Bank accounts

NPOs should conduct financial transactions where possible through regulated financial institutions. It is highly recommended that NPOs keep funds in bank accounts and use formal financial channels to transfer money. The use of "cash" or alternative remittance services to transfer funding should only be used as a last resort.

PROGRAMMATIC VERIFICATION

The need to verify activities of NPOs is very critical. NPOs should know and verify that funds have been spent in accordance with their purpose, objectives and activities.

Solicitations

NPOs should ensure that raised funds are used for the stated purposes, objectives and activities.

Oversight

To ensure that funds are being used in accordance with stated purposes, objectives and activities, members of NPOs should ask the following questions:

1. Have projects actually being carried out?
2. Are all funds accounted for?

Field examinations

NPOs are required to keep financial records that show and explain their transactions, within and outside Anguilla, and records that are sufficiently detailed to show that the funds have been used in a manner consistent with the constitution. Should NPOs be involved in an illegal act, NPOs will be required to provide records and an examination will be conducted by the AML/CFT Supervisor.

ADMINISTRATION

NPOs should document and maintain information about their purposes, objectives and activities. Also, the identity of the person or persons who own, control or direct the NPOs' activities, including senior board officers, board members and trustees should be kept.

Before establishing a business relationship with a donor or carrying out a one-off transaction, due diligence that includes knowing your donor should be performed by NPOs. Due diligence is performed by identifying and verifying the donor; determining if the donor is acting for a third party; identifying and verifying the beneficial owners and understanding the circumstances and business of the donor. Lack of knowledge or involvement in the NPOs' affairs does not absolve any executive officer or director of responsibility. Hence, executive officers' or directors' responsibilities include, but are not limited to:

1. Identifying each executive officer or director;
2. Ensuring that appropriate financial controls over program spending are in place; and
3. Formalising the manner in which elections to, and removal of, directors or executive officers are conducted.

Approved by the Board
Anguilla Financial Services Commission
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